

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS

NEIGHBORHOOD
ASSOCIATION OF THE
BACK BAY, INC., et al.
Plaintiffs

CIVIL ACTION
NO. 04cv11550-RCL

v.

FEDERAL TRANSIT
ADMINISTRATION, et al.
Defendants

BRIEF AMICUS CURIAE OF
ARLINGTON STREET CHURCH

BACKGROUND

Since its construction in 1861 as the first public building in the Back Bay (AR 757), Arlington Street Church (the Church) has defended the corner of Arlington and Boylston Streets. Long before historic preservation was regularized and the Neighborhood Association of the Back Bay (NABB) established, the congregations who governed the Church have embellished, preserved, repaired, and renovated their landmark structure through all the changes which have surrounded it over the decades. It has borne witness to civil rights, women's reproductive rights, gay liberation, anti-war protests during Vietnam and now Iraq. It has hosted a supper program for over 200 homeless people every Friday night for the past 20 years. It welcomes many community activities, concerts and public meetings, not to mention regular religious services,

weddings, funerals, and educational classes. Its programs may be somewhat radical for the Back Bay, but they must be accessible to everyone.

So for the past eight years the Church has taken an active role in the MBTA's planning to make the Arlington Station more accessible along with many other organizations, including the Mayor's Office, City Councilors, the State Representative and Senator, the Massachusetts Historical Commission, the Boston Redevelopment Authority, the Boston Landmarks Commission, the Back Bay Architectural Commission, the Boston Preservation Alliance, the Boston Parks and Recreation Department, the Boston Department of Public Works, the Boston Disabilities Commission, and the Drucker Company. (AR 386-388). Thirty-four agency and community meetings have been held. Contrary to the assertion in NABB's letter of August 18, 2003 (AR549), a representative of NABB attended one of the very first meetings with 16 other organizations. (RA 685)

As revealed in the minutes of these meetings, which are included in the Administrative Record, many configurations of the accessible facilities were considered. All had opposition and drawbacks.

The Public Garden location on the northeast corner was opposed by the Boston Parks Department and Friends of the Public Garden. (AR 688, 689) It would adversely impact this renowned national, state and city landmark. It is furthest removed from pedestrian traffic using the station and would require a tunnel to the station concourse.

The two locations in the southeast and southwest corners were opposed by the owner of the adjacent properties. But they were otherwise objectionable: They are the

two most constricted and heavily traveled accesses. An elevator at either location would eliminate two stairways.

Locating of the elevator in front of the Church at the northwest corner was opposed by everyone, because it would obstruct views of the principal façade and crowd the busy sidewalk.

The alternative location, on Boylston Street near the entrance to the Parish House on what must be described as the thrifty side of the Church, drew the least opposition. It will sit on the widest sidewalk. It will convenience pedestrians approaching from the west, long denied the Berkley Street entrance to the station.

It provides many benefits to the Church and the neighborhood.

The Church: An accessible subway entrance near the Church Parish House conveniences not only its disabled members and visitors but those who are elderly and infirm. In conjunction with its work on the project, the MBTA's contractor will construct accessibility improvements for the Church at the Church's Parish House. The Church will bear the cost of these improvements through a reduction in the amount that will be paid by the MBTA for the acquisition from the Church of property interests that are necessary for the construction of the project. The improvements will permit the Church to remove the temporary access ramp that defaces the principal (Arlington Street) façade of the Church.

The Neighborhood: The MBTA project includes replacing the spalling concrete wall along the Church yard on Boylston and Arlington Streets with a durable, aesthetically appropriate granite. (AR 747) It will eliminate the bays for street vendors which may have economic and social value but which the neighborhood regards as

inappropriate. Finally, the project includes reversing the stairway to the station at the northwest corner to reduce its visual impact on the Church and diminish the panhandling and drug dealing which has occurred on the front steps of the Church.

CONCLUSION

The Church supports the solution to the accessibility puzzle which the MBTA has crafted and its endorsement by the Federal Transit Administration. After eight years of analysis and community comment, the disabled and infirm members of the Church and the public have waited long enough.

Respectfully submitted,

ARLINGTON STREET CHURCH

By Its Attorney

A handwritten signature in black ink, appearing to read "Herbert P. Gleason", is written over a horizontal line.

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